

REMARKS

Claims 1-15 were pending in the application. Claims 4-8 and 10-15 have been withdrawn by the Examiner, and Applicant has cancelled Claim 2 without prejudice and added new independent Claim 16. Moreover, Claims 1, 3 and 9 have been rewritten, Claim 9 now presented in independent form.

Objections to the Drawings

The Examiner has indicated that the drawings have been objected to for reasons set forth in PTOL-948. However, Applicants cannot find said PTOL-948 amongst the papers received in the Office Action mailing. Further, Applicant's representative was unsuccessful at contacting the Examiner prior to the response due date, and respectfully requests that the Examiner fax the form to the undersigned at (201) 343-1684, and the matter will be handled promptly.

Claim of Priority

To properly claim priority, Applicant has inserted as the first sentence of the application the proper cross-reference information.

Specification

The paragraphs of the specification containing the portions indicated by the Examiner as needing correction have been corrected.

The Rejections Under 35 U.S.C. §112

Claims 1-3 and 9 have been rejected under 35 U.S.C. 112, first paragraph, for reason of written description. The Examiner contends that the written description is not commensurate in scope with the provision of SEQ ID NO:2.

Applicant respectfully traverses the rejection. By way of amendments to the claims, the word "corresponding" that is believed responsible for the confusion as to what the claims encompass, has been changed to provide more specificity to the claims, and as well, other language in the claims has been rewritten to further more clearly define their scope. With these amendments, the precise structure of the family of claimed troponin I fragments will be clear to the skilled artisan. Claim 9 was rewritten in independent form with clarity also added to the description of the claimed fragments.

With regard to the Examiner's mention of the failure of the claims to recite any function of the encompassed polypeptides, Applicant contends that with the amended claim language, the intended fragments are adequately defined and the inclusion of a functional limitation is thus unnecessary. Notwithstanding, Applicants contend that the specification is an adequate and acceptable source for various functions of the claimed polypeptides.

Applicant also believes that the amendments to the claims overcome the Examiner's concern about the interpretation of Claim 3. Furthermore, Applicant has also included a new, independent claim to the isolated peptide depicted in SEQ ID NO:2.

In light of the foregoing and the claim amendments, Applicant believes that the written description rejection has been overcome and withdrawal of the rejection is requested.

Claims 1-3 and 9 (these claims are believed to be those under rejection in Paragraph 8) have been rejected under 35 U.S.C. 112, first paragraph, with regard to enablement. The Examiner's concern is believed to center around the word "corresponding" in Claim 1.

Applicant respectfully traverses the rejection. In light of the amendments to the claims to replace the word "corresponding" and provide better language, and the corresponding arguments presented above, withdrawal of the rejection is requested.

Claims 1-3 and 9 have been rejected under 35 U.S.C. 112, second paragraph, for indefiniteness. This rejection is also centered around the word "corresponding," which Applicant traverses. By way of the foregoing amendments and explanations, Applicant believes that this rejection has been overcome, and its withdrawal is solicited.

The Rejections Under 35 U.S.C. §102

Claims 1-2 and 9 have been rejected under 35 U.S.C. §102(b) as being anticipated by Morjana et al. (WO97/19955). The Examiner asserts that Morjana et al. teaches human cardiac troponin I fragments generated from human recombinant troponin I by chemical cleavage, principally a 153-amino acid fragment, for which longer or shorter forms by a few amino acids are described. The Examiner indicates that Morjana's isolated polypeptide corresponds with Applicant's.

Applicant respectfully traverses the rejection. By the foregoing rewrite of the claims to eliminate the use of the words "corresponding" and "comprising" in order to clearly point out that Applicant's fragments in Claim 1 are around 95-115 amino acids in length, and in Claim 9 are around 65 to 95 amino acids in length, Applicant contends his fragments are not anticipated by Morjana's. Withdrawal of the rejection is requested.

Claims 1-2 and 9 have been rejected under 35 U.S.C. 102(b) as being anticipated by Moses et al. (WO 97/30085). The Examiner asserts that the Moses et al. teaching includes fragments of human cardiac troponin I of various lengths, at least 50, 75, 100 or 120 amino acids.

Applicant traverses the rejection. Moses et al. is concerned with therapeutic activities associated principally with a different form of troponin I, namely the fast-twitch (*i.e.*, skeletal) troponin I, and cardiac troponin I is mentioned only in passing with no description or enablement for any specific fragments of human cardiac troponin I (or even from where in the molecule to obtain such fragments). Moreover, Moses teaches that the full-length form of fast-twitch (skeletal, *not* cardiac) troponin I inhibits angiogenesis, and only postulates that fragments of skeletal, not cardiac, may also be similarly useful, and provides no description of any fragments of human cardiac troponin I and particularly from which part of the molecule to obtain said fragments; these are at best an invitation to experiment. Even though several desired lengths are disclosed, there is no teaching from where in the molecule to obtain such lengths. Applicant respectfully points out that one seeking to identify fragments of cardiac troponin I that are diagnostically useful immunogens or standards therefor as mentioned among various uses in the instant application would not take any guidance from the Moses reference.

In light of the foregoing, and in combination with amended claim language mentioned earlier, withdrawal of the rejection is requested.

Claims 1-3 and 9 have been rejected under 35 U.S.C. §102(e) as being anticipated by Potter et al. (WO97/39132). The Examiner asserts that Potter et al. teaches recombinant human cardiac troponin I that corresponds to Applicant's SEQ ID NO:2.

Applicant respectfully traverses the rejection. As noted above, Applicant has amended the claim language by eliminating the words "corresponding" and "comprising" such that Applicant's human cardiac troponin I fragments do not read on the Potter et al. troponin I. In light of the foregoing, withdrawal of the rejection is courteously requested.

Fees

A check in the amount of \$410.00 is enclosed herein for a two-month extension of time. No other fees are believed to be necessitated by the instant response. However, should this be in error, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment, or to credit any overpayments.

Conclusion

Applicants respectfully request entry of the foregoing amendments and remarks in the file history of the instant Application. The Claims as amended are believed to be in condition for allowance, and early and favorable action on the claims is earnestly solicited. Should a discussion aid in the prosecution of the application, the Examiner is invited to telephone the undersigned at (201) 487-5800, to effect a resolution.

Respectfully submitted,

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